UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

EUGENE ORANGE, Petitioner, v. A. HEDGEPETH, Warden, Respondent.	Civil No. 07cv2066 JLS (WMc) **ORDER:** **(1) DISMISSING FIRST AMENDED PETITION AS DUPLICATIVE [Doc. No. 4];** **(2) DISMISSING APPLICATION TO PROCEED IN FORMA PAUPERIS AS MOOT [Doc. No. 5.] ; and** **(3) DISMISSING MOTION FOR STAY AS MOOT [Doc. No. 6]**

On October 22, 2007, Petitioner, a state prisoner proceeding pro se, submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. [Doc. No. 1.] On November 15, 2007, this Court dismissed Petitioner's case for failure to pay the filing fee or move to proceed in forma pauperis, and name a proper respondent. [Doc. No. 3.] On December 12, 2007, Petitioner filed a First Amended Petition, together with a Request to Proceed In Forma Pauperis, and a Motion for Stay and Abeyance.

Upon further review, it appears that Petitioner has filed two identical petitions with this Court. On April 23, 2007, a petition identical to the present First Amended Petition was filed in case number 07cv0749. The Court may dismiss a duplicative petition as frivolous if it "merely repeats pending or previously litigated claims." Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citations omitted). In addition, Petitioner filed identical Requests to Proceed In Forma Pauperis in both cases, as well as a Motion for Stay and Abeyance in each case based on the same grounds.

In light of the above, the Court **DISMISSES** this case because the First Amended Petition in this case is duplicative of the original petition filed in case number 07cv0749. The Court further **DISMISSES** as **MOOT** Petitioner's Request to Proceed In Forma Pauperis and Motion for Stay and Abeyance in the present action. The Clerk shall close the file.

IT IS SO ORDERED.

DATED: January 8, 2008

Janis L. Sammartino

Honorable Janis L. Sammartino
United States District Judge